

RESPONSE TO SPECIES ELECTION REQUIREMENT

In response to the election of species requirement issued in connection with the above-identified application, the PTO has taken the position that there are three patentably distinct species disclosed in this single application and that the applicant is obliged to elect a single disclosed species for prosecution on the merits. These species are identified as:

Species I: Fig. 1
Species II: Fig. 4
Species III: Fig. 6

In this office action claim 18 alone has been indicated as being generic to all three species.

In this response, the Applicants provisionally elect species I (Fig. 1), on which claims 1-13, 15-23, 24-27 and 30-31 are readable.

In the absence of any indication to the contrary, it is assumed that the species have been deemed to be patentably distinct based on what is shown in the drawings. That is to say, the difference between the first two species is apparently seen as being the shield in Fig. 4, and difference between the arrangement shown in Fig. 6, is seen as being the use of two light sources (as different from one in Fig. 1). Irrespective of this rather simplistic determination of patentable distinction, it submitted that the claims which recite an "illumination source" read on all of the embodiments (i.e. one light source or a plurality of light sources) and the only claim of the originally filed claims which cannot be read on all of the species, is claim 14. For example, while claim 8 calls for a third image, there is nothing to stop the Fig. 1 arrangement of illuminating the same light source twice, for example, at different levels of illumination and/or duration.

Therefore, claims 1-13, 15-17, 19-27 and 30-31 are submitted as being generic in addition to claim 18. Of the newly added claims, claims 28-29 and 32-33 have been drafted to read on species III (Fig. 6).

REMARKS

This is in full and timely response to the above-identified Office Action.

New Claims

New claims are added in this response. These new claims contain claims which are readable on all of the species or on the species shown in Fig. 6. Full support for these new claims is found in the specification, drawings and originally filed claims.

As noted above, Applicants provisionally elect species I shown in Fig. 1 on which claims 1-13, 15-23, 24-27 and 30-31 are readable. It is submitted that claims 1-13, 15-17, 19-27 and 30-31 are submitted as being generic in addition to claim 18.

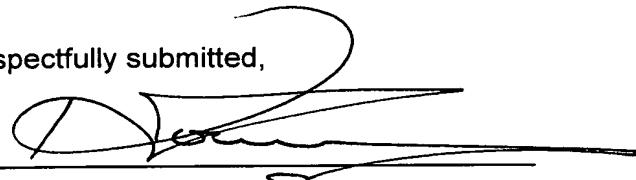
Species Election

The election is made without traverse. However, it is pointed out that it is, in order to avoid an impermissible double standard of obviousness, incumbent on the Examiner to apply the same level of patentable distinction that has been exhibited in determining the patentable distinction between the arrangements shown in Figs. 1, 4 and 6, when considering any art for application under either of 35 USC §§ 102 or 103.

The purpose of the species election is intended to avoid undue burden on the Examiner. A mere three embodiments, however, cannot be seen as a burden in this instance. Nevertheless, Applicants await a first action on the merits.

Respectfully submitted,

By



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